

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LEON FAUNTLEROY JR., et al.,

No. C 10-1468 MHP

Plaintiffs,

**MEMORANDUM & ORDER**

v.

**Re: Defendants' Motion to Dismiss**

GMAC MORTGAGE CORPORATION, et al.,

Defendants.

On April 7, 2010, plaintiffs filed a complaint with this court alleging claims under the Truth in Lending Act, 15 U.S.C. section 1601 *et seq.*, the Fair Debt Collection Practices Act, 15 U.S.C. section 1692 *et seq.*, and California Business and Professions Code section 17200.

On April 29, 2010, all defendants moved to dismiss plaintiffs' complaint for failure to state a claim. Docket No. 4 (Motion). On May 20, 2010, plaintiffs attempted to file an amended complaint. *See* Docket Sheet. On May 25, 2010, the court stated:

The complaint in this case satisfies neither Rule 8(a) or the *Iqbal-Twombly* requirements. Defendants have filed a motion to dismiss the complaint on these and other grounds. In the meantime plaintiffs have filed another 'complaint' which is even more verbose and more than twice as long as the first. This would, of course, ordinarily be an amended complaint and since no responsive pleading has been filed, a plaintiff may amend once as a matter of course. Fed. R. Civ. P. 15(a)(1). However, the court declines to accept the filing of this pleading. It will be lodged with the court. This new complaint fails all the requirements of Rule 8(a), *Iqbal* and *Twombly*. Defendants should not have to respond to a document this voluminous and incomprehensible and no court should have to wade through such a morass.

Docket No. 13 (Order) at 2. The court specifically stated that "Plaintiffs' date for filing an opposition to defendants' motion, which reaches the merits of the case, is June 7, 2010." *Id.* Plaintiffs failed to oppose the motion to dismiss. Docket No. 17 (Notice).

1 The absence of any opposition is a concession that defendants' arguments are meritorious.  
2 *Offril v. J.C. Penny Co., Inc.*, No. C 08-5050 PJH, 2009 WL 69344, at \*1, \*4 (N.D. Cal. Jan. 9,  
3 2009) (Hamilton, J.) (granting unopposed motion to dismiss without leave to amend); *Freeman for*  
4 *Thomas v. Ellen*, No. C 98-0445 MMC, 1998 WL 164948, \*1, \*3-4 (N.D. Cal. Mar. 16, 1998)  
5 (Chesney, J.) (granting unopposed motion to dismiss without leave to amend); *Stewart v. City and*  
6 *County of San Francisco*, No. C 08-5434 SBA, 2009 WL 1331101, at \*1-2 (N.D. Cal. May 13,  
7 2009) (Armstrong, J.) (granting unopposed motion for judgment on the pleading with prejudice);  
8 *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (per curiam) (affirming order granting motion  
9 to dismiss where plaintiff failed to respond to motion).

10 Accordingly, defendants' motion to dismiss is GRANTED and the complaint is DISMISSED  
11 in its entirety.

12 The Clerk of Court shall close the file.

13 IT IS SO ORDERED.

14 Dated: June 21, 2010

  
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MARILYN HALL PATEL  
United States District Court Judge  
Northern District of California